(G.C.P.)J 455 (5,00,000)-11.2001) Spl-H.C.,A.S.,C.D.,78e

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

Civil Application No.96 of 2004
In
Civil Revision Application 62 of 1993

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions and Registrar's order.	Court's or Judge's orders

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Shri C.R.Dalvi, Sr.Advocate, for
Mrs.S.S.Gorwadkar for the petitioner.

Shri V.G.Mujumdar for respondent No.1.

Shri K.Y. Mandlik for respondent No.5.

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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 1st December, 2004

P.C.

1. Heard. It is revealed that the respondent No.1 had expired on 10th February, 2000, leaving behind him the respondent Nos.2 and 3 as his legal representatives.

2. Considering the fact that the legal representatives of the deceased respondent No.1 are already on record, mere delay in filing the application for bringing to the notice of the Court that the respondent No.1

had expired would not result in abatement of the appeal against the legal representatives of the deceased respondent No.1. Besides, the records nowhere disclose compliance of the obligation on the part of the learned Advocate for the respondent No.1 in terms of the Rule 10-A of Order 22 of the Code of Civil Procedure, 1908. Considering the same, the Civil Revision Application is to be held within time. The Civil Application is allowed and the matter to proceed against the respondent Nos.2 and 3, not only in their individual capacity but also as the legal representatives of the deceased respondent No.1.

3. The registry to carry out amendment in the cause title of the Civil Revision Application No.62 of 1993 forthwith. The Civil Application accordingly stands disposed of.